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Applicant(s): Shinichi KURAKATA et al.

Serial No. : 09/212,556

Filed : December 16, 1998

For : METHODS AND COMPOSITIONS
FOR THE TREATMENT AND
PREVENTION OF TUMORS...

Art Unit : 1623

Examiner : Howard Owens, Jr.

Attorney: Marshall J. Chick

Dated: January 23, 2001

In the event that this Paper is late filed, and the necessary petition for extension of time is not filed concurrently herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this Paper, to Account No. 06-1378.

RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

S I R :

This is in response to the Restriction Requirement dated January 12, 2001, the term for which expires February 12, 2001.

Applicants were required to elect one of a large number of listed species. Applicants hereby elect Species I (Formulae I and II, Dyphenylpyrrole derivatives, with traverse.

The restriction requirement concerning the election of species is respectfully traversed on the ground that it is not a species requirement of the type set forth in the third paragraph of MPEP 803.02 entitled "PRACTICE RE MARKUSH TYPE CLAIMS." It is respectfully submitted that the practice set forth therein and in the decisions cited in MPEP 803.02 are the proper practice to be applied in the present case and to the extent that the



restriction requirement is not consistent therewith, it respectfully traversed.

If, however, the restriction requirement is maintained, then taking into consideration that there are generic claims, it is respectfully requested that the provisions of 37 CFR 1.141(a) and the procedure set forth in MPEP 806.04(d) be followed, which provide that once a claim that is determined to be generic is allowed, all of the claims drawn to species, in addition to the elected species, which include all of the limitations of the generic claim, should be allowed.

Reconsideration is respectfully requested.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

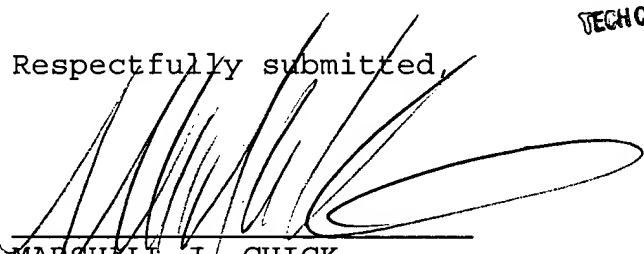
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Respectfully submitted,


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